

EXHIBIT A

1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF
MASSACHUSETTS

IN RE: PHARMACEUTICAL)
INDUSTRY AVERAGE WHOLESALE)
PRICE LITIGATION)
_____) MDL No. 1456
) Civil Action
THIS DOCUMENT RELATES TO:) 01-CV-12257-PBS
City of New York, et al.)
v.) Judge Patti B. Saris
Abbott Laboratories, et al.)
)

VIDEOTAPED
30(b)(6) DEPOSITION
OF PUREPAC & ALPHARMA
(PATRICIA O'MALLEY)

<p style="text-align: right;">30</p> <p>1 A. That is my understanding.</p> <p>2 Q. And do you understand that when a brand</p> <p>3 comes off patent, a single generic manufacturer is</p> <p>4 typically granted exclusivity for a period of time</p> <p>5 to manufacture the generic version of the brand?</p> <p>6 A. Could you repeat that last statement</p> <p>7 again? The last one.</p> <p>8 Q. Is it your understanding that when a</p> <p>9 brand drug comes off patent, a single generic</p> <p>10 manufacturer can obtain exclusive rights to</p> <p>11 manufacture the generic version of that brand for</p> <p>12 a period of time?</p> <p>13 A. It is my understanding that that is</p> <p>14 sometimes a possibility.</p> <p>15 Q. And has Purepac ever been in the</p> <p>16 position with respect to the four drugs that we</p> <p>17 have identified here to have that period of</p> <p>18 exclusivity?</p> <p>19 A. I do not believe, recollect that</p> <p>20 Purepac had exclusivity period for any of the four</p> <p>21 drugs in question here.</p> <p>22 Q. Okay. So then at the point when</p>	<p style="text-align: right;">32</p> <p>1 manufacturers marketing Clonazepam at the same</p> <p>2 time.</p> <p>3 Q. And were there other generic</p> <p>4 manufacturers marketing Isosorbide Mononitrate?</p> <p>5 MR. FLEDER: Counsel, if you could just</p> <p>6 clarify. Are you talking about in response -- in</p> <p>7 this question the time period of 1995 to 2005 or</p> <p>8 are you making a more broader period than that?</p> <p>9 MS. CICALA: No. Thank you for the</p> <p>10 clarification and I believe you meant 1997 through</p> <p>11 2005. All of my questions here today concern only</p> <p>12 the time period of 1997 through 2005.</p> <p>13 THE WITNESS: Understood.</p> <p>14 Q. So between that time period, are you</p> <p>15 aware whether there were other generic</p> <p>16 manufacturers marketing Isosorbide Mononitrate?</p> <p>17 A. I believe there were other generic</p> <p>18 manufacturers marketing the Isosorbide during the</p> <p>19 relevant time period.</p> <p>20 Q. Do you recall identifying those time</p> <p>21 periods in your Massachusetts deposition?</p> <p>22 A. I cannot recall offhand. However, I</p>
<p style="text-align: right;">31</p> <p>1 Purepac began to market or manufacture these four</p> <p>2 drugs, other generic companies were already</p> <p>3 manufacturing or marketing these drugs.</p> <p>4 MR. FLEDER: Objection. I don't think that</p> <p>5 follows from what she said. She can answer that</p> <p>6 question. It seems unduly vague.</p> <p>7 If you can answer it, answer it.</p> <p>8 A. Would you repeat the question? Sorry.</p> <p>9 Q. Certainly. If Purepac didn't -- did</p> <p>10 not have exclusivity when it entered the market</p> <p>11 for these four drugs, then is it fair to say that</p> <p>12 another manufacturer was already in the market</p> <p>13 manufacturing any one of these drugs?</p> <p>14 A. I believe that could have been one of</p> <p>15 the scenarios. There could have been others.</p> <p>16 Q. Are you aware whether Purepac --</p> <p>17 withdrawn.</p> <p>18 Are you aware whether any other generic</p> <p>19 manufacturers manufactured or marketed Clonazepam</p> <p>20 at the same time that Purepac was marketing and</p> <p>21 manufacturing Clonazepam?</p> <p>22 A. I believe that there were other generic</p>	<p style="text-align: right;">33</p> <p>1 believe it may be available that we could refer</p> <p>2 to.</p> <p>3 Q. We needn't. We needn't.</p> <p>4 A. Okay.</p> <p>5 Q. Do you recall, when you reviewed your</p> <p>6 deposition transcript, finding that your</p> <p>7 statements with regard to the competitive</p> <p>8 environment, meaning the other manufacturers of</p> <p>9 these particular products as Clonazepam -- let me</p> <p>10 rephrase. In Massachusetts, your testimony as I</p> <p>11 understand it, concerned Clonazepam, Isosorbide</p> <p>12 Mononitrate and Lorazepam; correct?</p> <p>13 A. Correct.</p> <p>14 Q. It did not concern Enalapril.</p> <p>15 A. I believe that's also correct.</p> <p>16 MR. FLEDER: For the record, the Commonwealth</p> <p>17 asked many questions and showed many documents to</p> <p>18 this witness that clearly did not relate to any of</p> <p>19 those three drugs, but if you are asking if those</p> <p>20 are the three drugs that are relevant to the</p> <p>21 Massachusetts case, you are correct.</p> <p>22 Q. So --</p>

<p style="text-align: right;">226</p> <p>1 determinations with regard to that calculation.</p> <p>2 But we are prepared to proffer that it is</p> <p>3 clearly a methodology that is approved by CMS</p> <p>4 under the statute. There's just a number of</p> <p>5 places where you can pivot left or right, and you</p> <p>6 oftentimes need advice of counsel which way to go.</p> <p>7 We'd rather not get into that.</p> <p>8 MS. CICALA: I understand and I respect your</p> <p>9 position. So, for example, you are not prepared</p> <p>10 to tell me if prices to mail-order, mail-order</p> <p>11 pharmacies are included in AMP?</p> <p>12 MR. FLEDER: Let me also say there is nothing</p> <p>13 in this case that alleges that the AMPs that were</p> <p>14 calculated by the company were in any way</p> <p>15 improperly done. So I don't see how this is</p> <p>16 relevant to this case.</p> <p>17 MS. CICALA: While I have no obligation to</p> <p>18 respond as to the relevance, for the sake of</p> <p>19 advancing the argument, I will state that to the</p> <p>20 extent AMP is probative of the veracity of WAC and</p> <p>21 other prices and Purepac's knowledge as to retail</p> <p>22 prices, it is directly relevant and there are AMP</p>	<p style="text-align: right;">228</p> <p>1 that correct?</p> <p>2 MS. CICALA: We exported your data into an</p> <p>3 Excel spreadsheet. No. Excuse me one moment,</p> <p>4 please. Off the record.</p> <p>5 THE VIDEOGRAPHER: Going off the record. The</p> <p>6 time is 3:50 p.m.</p> <p>7 (Discussion held off the record.)</p> <p>8 THE VIDEOGRAPHER: We are back on the record.</p> <p>9 The time is 3:51 p.m.</p> <p>10 MS. CICALA: Let me correct a statement I</p> <p>11 just made regarding Exhibit 22. We received TIFF</p> <p>12 images, actual hard copies of documents from</p> <p>13 Purepac that were represented to us to be the</p> <p>14 Purepac AMPs, I believe, for all of our at issue</p> <p>15 drugs.</p> <p>16 I realize today our focus is only on the four</p> <p>17 drugs. I am trying to get confirmation what we</p> <p>18 received from Purepac is what was submitted for</p> <p>19 the NDCs represented in that data.</p> <p>20 MR. FLEDER: I think we can represent the AMP</p> <p>21 data we provided were in fact the AMPs that were</p> <p>22 generated in connection with the drugs at issue</p>
<p style="text-align: right;">227</p> <p>1 allegations in the complaint apart from that.</p> <p>2 Setting all that aside, I understand Purepac's</p> <p>3 position and we can address it as needed off the</p> <p>4 record.</p> <p>5 Q. I have placed before you, Ms. O'Malley,</p> <p>6 Exhibit 22 which is an excerpt of the AMP data</p> <p>7 that was supplied to us by counsel in connection</p> <p>8 with this litigation. And I don't know whether</p> <p>9 you are in a position to do this, but I was hoping</p> <p>10 to authenticate that the data provided to us, of</p> <p>11 which I am showing you merely an excerpt for</p> <p>12 illustrative purposes, is true and complete and</p> <p>13 represents the actual AMPs that Purepac supplied</p> <p>14 to CMS for the identified time periods. I don't</p> <p>15 know if you are in a position to authenticate this</p> <p>16 for us or perhaps counsel can assist.</p> <p>17 A. I don't recall seeing this document.</p> <p>18 Q. It is merely an excerpt of a very</p> <p>19 lengthy collection of data points that Purepac has</p> <p>20 supplied to us as their AMPs.</p> <p>21 MR. FLEDER: So 22 is a document that was</p> <p>22 generated by the New York Counties and City; is</p>	<p style="text-align: right;">229</p> <p>1 here today.</p> <p>2 MS. CICALA: And in turn, the AMPs that were</p> <p>3 supplied by Purepac to CMS.</p> <p>4 MR. DUFF: Yes.</p> <p>5 MR. FLEDER: Yes.</p> <p>6 MS. CICALA: Thank you very much.</p> <p>7 Q. Turning back to the subject of</p> <p>8 compliance for a moment, Ms. O'Malley, are you</p> <p>9 aware whether Purepac has ever issued any</p> <p>10 guidelines whatsoever regarding how suggested AWP</p> <p>11 should be calculated?</p> <p>12 A. I am not aware of any such guidelines.</p> <p>13 Q. And are you aware of any guidelines</p> <p>14 issued by anyone within Purepac or otherwise</p> <p>15 regarding how Purepac WACs should be calculated?</p> <p>16 A. I am not aware of any such guidelines.</p> <p>17 Q. I would like to take a short break if</p> <p>18 we could and go off the record.</p> <p>19 MR. FLEDER: Before we go off the record, let</p> <p>20 me state one thing for the record. 12:07, Ms.</p> <p>21 Cicala asked to take a lunch break and we didn't</p> <p>22 object. And indicated desire to resume at one</p>

EXHIBIT B

Miranda, Roberto

October 19, 2007

Florham Park, NJ

1

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

C.A. NO. 03-11865 PBS

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THE COMMONWEALTH OF	:	
MASSACHUSETTS,	:	VIDEOTAPED
Plaintiff,	:	DEPOSITION OF:
vs.	:	ROBERTO MIRANDA
MYLAN LABORATORIES, INC., BARR	:	
LABORATORIES, INC., DURAMED	:	OCTOBER 19, 2007
PHARMACEUTICALS, INC., IVAX	:	FLORHAM PARK, NJ
CORPORATION, WARRICK	:	
PHARMACEUTICALS CORPORATION,	:	
WATSON PHARMACEUTICALS, INC.,	:	
SCHEIN PHARMACEUTICAL, INC.,	:	
TEVA PHARMACEUTICALS USA, INC.,	:	
PAR PHARMACEUTICAL, INC., DEY,	:	
INC., ETHEX CORPORATION,	:	
PUREPAC PHARMACEUTICAL CO.,	:	
and ROXANE LABORATORIES, INC.,	:	
Defendants.	:	

_____X

Miranda, Roberto

October 19, 2007

Florham Park, NJ

5 (Pages 14 to 17)

<p style="text-align: right;">14</p> <p>1 A. Could you repeat that, please.</p> <p>2 Q. To the best of your recollection, when</p> <p>3 did you start in the position of bids and</p> <p>4 contracts administrator?</p> <p>5 A. That would have been, to the best of my</p> <p>6 recollection, about '84, '85.</p> <p>7 Q. And how long did you hold that</p> <p>8 position?</p> <p>9 A. I believe possibly about five years,</p> <p>10 four or five years later.</p> <p>11 Q. And what was your next position with</p> <p>12 PurePac?</p> <p>13 A. It was basically a change in title to</p> <p>14 bids and contracts manager.</p> <p>15 Q. And how long did you have the title of</p> <p>16 bids and contracts manager?</p> <p>17 A. Until -- I believe it was sometime</p> <p>18 2001, 2002.</p> <p>19 Q. And what happened then?</p> <p>20 A. A change in title.</p> <p>21 Q. Okay. And what was your new title</p> <p>22 then?</p>	<p style="text-align: right;">16</p> <p>1 the contract and to implement the contract.</p> <p>2 Q. And are there any other duties or</p> <p>3 responsibilities that you've had in these various</p> <p>4 bid and contract positions that you've held?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. Over the years that you've held this</p> <p>7 position, have you had people that you supervised</p> <p>8 that worked for you?</p> <p>9 A. For which period are we talking about,</p> <p>10 sir?</p> <p>11 Q. I guess let's take the whole period.</p> <p>12 Sometime during that period have you had some</p> <p>13 staff people that worked for you and helped you</p> <p>14 do these jobs?</p> <p>15 A. I can only recall of one. Actually,</p> <p>16 I'm sorry, it would be two, two instances.</p> <p>17 Q. Why don't you tell me who those people</p> <p>18 were.</p> <p>19 A. I believe her name was Fran</p> <p>20 Defedericko. D-e-f-e-d-e-r-i-c-k-o, I believe.</p> <p>21 Q. And do you recall that other person?</p> <p>22 A. Teisha, T-e-i-s-h-a, Davis, D-a-v-i-s.</p>
<p style="text-align: right;">15</p> <p>1 A. Contract manager, key accounts.</p> <p>2 Q. Key, k-e-y?</p> <p>3 A. K-e-y.</p> <p>4 Q. And have you had any changes in title</p> <p>5 since then?</p> <p>6 A. No, sir.</p> <p>7 Q. Do you think it's fair, it's accurate</p> <p>8 to say that essentially you've had the same job</p> <p>9 with different titles since '84 or '85?</p> <p>10 A. I believe so, yes.</p> <p>11 Q. I'd ask you to focus on your duties and</p> <p>12 responsibilities in that position, and just</p> <p>13 describe for me in general terms what it is you</p> <p>14 do, what you are responsible for.</p> <p>15 A. I am responsible for submitting bid</p> <p>16 offers based on requests for proposals that the</p> <p>17 company receives from potential customers.</p> <p>18 Q. And if the bid is accepted and the</p> <p>19 customer agrees to do business with PurePac, do</p> <p>20 you have any duties or responsibilities with</p> <p>21 regard to the contract?</p> <p>22 A. Yes, sir. That would be to administer</p>	<p style="text-align: right;">17</p> <p>1 Q. And do you remember when they worked</p> <p>2 for you?</p> <p>3 A. Fran, I vaguely remember, sir.</p> <p>4 Q. So it's way back?</p> <p>5 A. Yes.</p> <p>6 Q. And what about Teisha?</p> <p>7 A. Teisha would have been from -- I</p> <p>8 believe it was somewhere around 2000, 2001.</p> <p>9 Q. I think you said you thought it was</p> <p>10 probably around '84 or '85 that you became bid</p> <p>11 and contract administrator?</p> <p>12 A. Yes, sir. I believe so.</p> <p>13 Q. If you can, can you take me through who</p> <p>14 your bosses have been and who you reported to in</p> <p>15 the positions that you've had involving bids and</p> <p>16 contracts?</p> <p>17 A. To the best of my recollection -- and I</p> <p>18 am not sure as to the timeline -- but it was Bill</p> <p>19 Barish, B-a-r-i-s-h, Pat O'Malley, Jane Cebula,</p> <p>20 C-e-b-u-l-a, Pat O'Malley again, Bob Jones, Pat</p> <p>21 O'Malley again, and currently, Joseph Corsetti.</p> <p>22 Q. Joseph who?</p>

EXHIBIT C

Cunningham, Bradford John

October 23, 2007

Florham Park, NJ

1

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-CV-11865-PBS

-----X
THE COMMONWEALTH OF)
MASSACHUSETTS,) VIDEOTAPED
Plaintiff,) DEPOSITION UPON
v.) ORAL EXAMINATION
MYLAN LABORATORIES INC., et) OF
al.,) BRADFORD JOHN
Defendants.) CUNNINGHAM
-----X

T R A N S C R I P T of the stenographic
notes of JANE LORFING COLWELL, a Certified Shorthand
Reporter and Notary Public of the State of New
Jersey, taken at the offices of Veritext/New Jersey,
25B Vreeland Road, Suite 301, Florham Park, New
Jersey, on Tuesday, October 23, 2007, commencing at
8:42 a.m.

Cunningham, Bradford John

October 23, 2007

Florham Park, NJ

7 (Pages 22 to 25)

<p style="text-align: right;">22</p> <p>1 Schiaparelli?</p> <p>2 A. Not very long. I would say no more</p> <p>3 than two years.</p> <p>4 Q. Then I think you said you went to</p> <p>5 Mylan.</p> <p>6 A. Yes.</p> <p>7 Q. And what was your position at Mylan?</p> <p>8 A. I was a director of national accounts</p> <p>9 in the west.</p> <p>10 Q. How long were you with them?</p> <p>11 A. Mylan, I started in '92, and went</p> <p>12 through the summer of 2000.</p> <p>13 Q. Then I think you said you went to</p> <p>14 Purepac.</p> <p>15 A. Yes.</p> <p>16 Q. How did that come about?</p> <p>17 A. I was contacted by Purepac as a</p> <p>18 possible candidate for employment.</p> <p>19 Q. For what position?</p> <p>20 A. Vice president of sales.</p> <p>21 Q. Who contacted you?</p> <p>22 A. Robert Sanzen, S-A-N-Z-E-N.</p>	<p style="text-align: right;">24</p> <p>1 A. No.</p> <p>2 Q. Okay. How long do you stay with</p> <p>3 Purepac?</p> <p>4 A. I stayed with Purepac until the fall of</p> <p>5 2002.</p> <p>6 Q. And I think you said you went to Clay-</p> <p>7 Park Labs; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. What's the business of Clay-Park Labs,</p> <p>10 or what was it at the time you joined?</p> <p>11 A. I joined their RX division.</p> <p>12 Q. What's that?</p> <p>13 A. That was a prescription product</p> <p>14 portfolio.</p> <p>15 Q. Prescription product portfolio. Can</p> <p>16 you explain to me what that is?</p> <p>17 A. That is a number of products that</p> <p>18 require a prescription from a physician to be</p> <p>19 dispensed.</p> <p>20 Q. And are you selling them?</p> <p>21 A. Yes.</p> <p>22 Q. To whom were you selling them?</p>
<p style="text-align: right;">23</p> <p>1 Q. How did you know Bob?</p> <p>2 A. I knew Bob through working at Mylan.</p> <p>3 Q. You and he had worked together at Mylan</p> <p>4 at the same time?</p> <p>5 A. Yes.</p> <p>6 Q. And when was it that you came to work</p> <p>7 at Purepac?</p> <p>8 A. That was in the summer -- late summer</p> <p>9 of 2000.</p> <p>10 Q. What was your position when you start</p> <p>11 with Purepac?</p> <p>12 A. Vice president of sales.</p> <p>13 Q. What were your duties and</p> <p>14 responsibilities?</p> <p>15 A. Mostly sales. My background, so that's</p> <p>16 what I did.</p> <p>17 Q. And you supervised Purepac's sales</p> <p>18 force?</p> <p>19 A. Yes.</p> <p>20 Q. Any other duties and responsibilities?</p> <p>21 A. When I started?</p> <p>22 Q. Yes.</p>	<p style="text-align: right;">25</p> <p>1 A. To national accounts.</p> <p>2 Q. What kind of products? Is it</p> <p>3 pharmaceuticals or what?</p> <p>4 A. They were predominantly dermatology</p> <p>5 products.</p> <p>6 Q. So things for the skin.</p> <p>7 A. Yes.</p> <p>8 Q. But they required a prescription.</p> <p>9 A. Yes.</p> <p>10 Q. And where was Clay-Park Limited</p> <p>11 located?</p> <p>12 A. Bronx, New York.</p> <p>13 Q. How long were you with them?</p> <p>14 A. I was with them until spring of 2005.</p> <p>15 Q. What do you do then?</p> <p>16 A. Pardon me?</p> <p>17 Q. What was -- your next employer, I</p> <p>18 guess, is Allan Pharmaceuticals?</p> <p>19 A. Yes.</p> <p>20 Q. When do you start with Allan?</p> <p>21 A. I started with Allan in March of 2007.</p> <p>22 Q. Were you employed between the spring of</p>

EXHIBIT D

O'Malley 30(b)(6), Patricia Eileen
Florham Park, NJ

September 19, 2007

1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CIVIL ACTION NO. 03-CV-11865-PBS

THE COMMONWEALTH OF)	
MASSACHUSETTS,)	VIDEOTAPED 30(b)(6)
Plaintiff,)	DEPOSITION UPON
v.)	ORAL EXAMINATION
MYLAN LABORATORIES INC., et)	OF
al.,)	PATRICIA EILEEN
Defendants.)	O'MALLEY
_____)	

T R A N S C R I P T of the stenographic
notes of JANE LORFING COLWELL, a Certified Shorthand
Reporter and Notary Public of the State of New
Jersey, taken at the offices of Veritext LLC, 25B
Vreeland Road, Suite 301, Florham Park, New Jersey,
on Wednesday, September 19, 2007, commencing at
9:28 a.m.

O'Malley 30(b)(6), Patricia Eileen
Florham Park, NJ

September 19, 2007

10 (Pages 34 to 37)

<p style="text-align: right;">34</p> <p>1 Products Division, Inc.</p> <p>2 May 15, 2006, Purepac Pharmaceutical Co.</p> <p>3 was converted to a Delaware limited liability company</p> <p>4 and its name changed to Actavis Elizabeth LLC.</p> <p>5 Actavis Elizabeth LLC continues to do business under</p> <p>6 the 00228 labeler code.</p> <p>7 Q Okay. When you are referring to labeler</p> <p>8 codes, that's numbers assigned by the Food and Drug</p> <p>9 Administration in connection with approving</p> <p>10 pharmaceuticals?</p> <p>11 A I believe that's correct.</p> <p>12 Q If I can, I'd like to just go back and try</p> <p>13 and make sure I understand the corporate history you</p> <p>14 have provided.</p> <p>15 When you joined the company in 1979, it was</p> <p>16 operating under the name Purepac; is that right?</p> <p>17 A I believe that is correct.</p> <p>18 Q And it was owned, I think you said, by a</p> <p>19 company with the name Kalipharma, Inc.; is that</p> <p>20 right?</p> <p>21 A I believe that's what I said.</p> <p>22 Q And Kalipharma, Inc., what country or</p>	<p style="text-align: right;">36</p> <p>1 Q Where is Alpharma from? What country are</p> <p>2 they?</p> <p>3 A Norway.</p> <p>4 Q And they, in essence, replaced Faulding as</p> <p>5 the parent company?</p> <p>6 A That's correct.</p> <p>7 Q And they operated under -- using the</p> <p>8 Purepac name, I think; is that right? The Alpharma</p> <p>9 people?</p> <p>10 A I believe they used the Purepac name.</p> <p>11 Q And then I think you said that it was</p> <p>12 sometime in 2005 that the Actavis group takes over as</p> <p>13 the parent and Alpharma is out of the picture; is</p> <p>14 that right?</p> <p>15 A I believe that is correct, December of</p> <p>16 2005.</p> <p>17 Q Where is Actavis from?</p> <p>18 A Actavis headquarters, I believe, in</p> <p>19 Iceland.</p> <p>20 Q Throughout the whole time that you were</p> <p>21 there, from '79 up through 2006, did the business</p> <p>22 always operate using the Purepac name?</p>
<p style="text-align: right;">35</p> <p>1 what -- where was that located? Was that a German</p> <p>2 company? Either it or its parent?</p> <p>3 A I believe either it or its parent's company</p> <p>4 was German.</p> <p>5 Q I think later on you said -- I think it was</p> <p>6 in 1982 -- that Purepac was acquired by a company</p> <p>7 that was part of the Faulding group of companies; is</p> <p>8 that right?</p> <p>9 A I believe I said September 2, 1982,</p> <p>10 Moleculon Biotech, Inc., an affiliate of FH Faulding</p> <p>11 & Co. Limited.</p> <p>12 Q And Faulding was an Australian company?</p> <p>13 A I believe that is correct.</p> <p>14 Q And in essence, rather than getting into</p> <p>15 the details of the corporate reorganization, Faulding</p> <p>16 takes over, and Kalipharma, the German company, is</p> <p>17 out of the picture after that; is that right?</p> <p>18 A I believe that is correct. I am not</p> <p>19 certain of the exact date.</p> <p>20 Q Okay. And then at some point Alpharma</p> <p>21 becomes the parent company; is that right?</p> <p>22 A I believe that is correct, also.</p>	<p style="text-align: right;">37</p> <p>1 A While I was there, I believe the Purepac</p> <p>2 name was used, yes.</p> <p>3 Q Okay. All right.</p> <p>4 During the questions I ask you today,</p> <p>5 sometimes I will make reference to the relevant time</p> <p>6 period for the purposes of this case. And that's</p> <p>7 essentially the years 1997 through 2003. During that</p> <p>8 time period where was Purepac headquartered?</p> <p>9 A I am not sure where the headquarters were</p> <p>10 specifically during that time period, from 1997</p> <p>11 through 2003.</p> <p>12 Q Do you know at any point during that time</p> <p>13 period where it was headquartered?</p> <p>14 A I believe I know sometime during that</p> <p>15 period where it was headquartered. I am not sure of</p> <p>16 the dates, though.</p> <p>17 Q Where are you aware of it having</p> <p>18 headquarters?</p> <p>19 A I believe there was a headquarters in</p> <p>20 Elizabeth, New Jersey.</p> <p>21 Q Is that where you worked?</p> <p>22 A I worked in Elizabeth, New Jersey, from</p>

O'Malley 30(b)(6), Patricia Eileen
Florham Park, NJ

September 19, 2007

19 (Pages 70 to 73)

<p style="text-align: right;">70</p> <p>1 Q When we are talking about wholesalers, I</p> <p>2 guess -- you tell me if this is correct, that</p> <p>3 currently in the U.S. pharmaceutical market there's</p> <p>4 basically three big national wholesalers?</p> <p>5 A We are talking about today, 2007?</p> <p>6 Q Yes.</p> <p>7 A I believe that would be correct.</p> <p>8 Q All right. These distributors that you</p> <p>9 mentioned, they'd be smaller operations. They might</p> <p>10 not be national or they might specialize in a</p> <p>11 particular type of customer, but they do essentially</p> <p>12 the same thing as wholesalers do?</p> <p>13 A I'm sorry, you had said that</p> <p>14 distributors -- you said a couple of things there.</p> <p>15 They are not national and --</p> <p>16 Q Let me back up. I am trying to understand</p> <p>17 who these distributors are. I think you said that</p> <p>18 they are customers that buy directly from a</p> <p>19 manufacturer like Purepac; is that right?</p> <p>20 A Correct.</p> <p>21 Q And then they in turn resell the product to</p> <p>22 customers that they have.</p>	<p style="text-align: right;">72</p> <p>1 VA.</p> <p>2 Q Okay. Anyone else?</p> <p>3 A An indirect customer, I believe, for</p> <p>4 Purepac could be a pharmacy buying group.</p> <p>5 Q Anyone else?</p> <p>6 A An indirect customer for Purepac could be a</p> <p>7 GPO, which is a group purchasing organization.</p> <p>8 Q Anyone else?</p> <p>9 A No one that comes to the top of my head.</p> <p>10 Q How about nonwarehousing chains?</p> <p>11 A I believe that nonwarehousing chains could</p> <p>12 be added to that list of Purepac indirect customers</p> <p>13 during the relevant time period.</p> <p>14 Q And I think you mentioned pharmacy buying</p> <p>15 groups and GPOs. Can you explain to me the</p> <p>16 difference between those two terms?</p> <p>17 A I believe that a pharmacy buying group</p> <p>18 would be a group of pharmacies that formed a buying</p> <p>19 association to purchase product, and the GPO would be</p> <p>20 group purchasing organization, and that would be a</p> <p>21 group of hospitals who formed a group to purchase</p> <p>22 products.</p>
<p style="text-align: right;">71</p> <p>1 A That is correct; that's my understanding.</p> <p>2 Q That's essentially what the wholesalers do</p> <p>3 as well; right?</p> <p>4 A That is my understanding.</p> <p>5 Q Is it fair -- is it accurate the way the</p> <p>6 terms are used in the industry that people that are</p> <p>7 called distributors are usually smaller operations</p> <p>8 than the wholesalers?</p> <p>9 A That is my understanding, that distributors</p> <p>10 would be smaller.</p> <p>11 Q And they might have a more limited focus, a</p> <p>12 particular type of customer or something.</p> <p>13 A I don't know their focus for customers.</p> <p>14 Q Let's focus for a moment on the indirect</p> <p>15 customers. What kinds of businesses would be</p> <p>16 indirect customers of Purepac during the relevant</p> <p>17 time period?</p> <p>18 A Would you like me to name a customer or</p> <p>19 just the type?</p> <p>20 Q Sure, either -- whichever is easier for</p> <p>21 you.</p> <p>22 A Indirect customer for Purepac could be the</p>	<p style="text-align: right;">73</p> <p>1 Q So GPOs are usually hospitals?</p> <p>2 A That is my belief.</p> <p>3 Q And essentially they pool their purchasing</p> <p>4 power, they negotiate with the manufacturer, but they</p> <p>5 don't actually take delivery of the product. The</p> <p>6 product goes through the warehouse -- the</p> <p>7 wholesalers?</p> <p>8 A That's correct.</p> <p>9 Q Okay. During the relevant time period, '97</p> <p>10 to 2003, how large was the Purepac field sales force?</p> <p>11 How many salesmen would you have out calling on</p> <p>12 customers?</p> <p>13 A I believe that we discussed this, and</p> <p>14 during the relevant time period there was a range of</p> <p>15 sales reps. It could have been as few as three up to</p> <p>16 ten. I do recall reviewing some org charts.</p> <p>17 Q Does anybody stand out in your mind as</p> <p>18 having been a longtime field salesperson for Purepac?</p> <p>19 MR. FLEDER: Objection. Unduly vague.</p> <p>20 That question is unduly vague. I don't know what you</p> <p>21 mean by stand out.</p> <p>22 Q Mr. Fleder can make objections, and they</p>

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<p style="text-align: right;">90</p> <p>1 it was a requirement by customers to submit AWP's at 2 the time of launch that was necessary to have a 3 product rated as a generic in order to have it 4 dispensed and sold ultimately as a generic product. 5 Q Why did the customers want or need to know 6 what the AWP was? 7 A I can't speak for the customer. I don't 8 know why they needed that. 9 Q Did you become aware that many third-party 10 payors reimbursed based on AWP? 11 A I believe I was aware at some point that 12 third-party payors reimbursed on AWP. 13 Q Among the third-party payors would be 14 various health insurance firms? 15 A I believe they would be some of the 16 third-party payors. 17 Q Sometimes union health and welfare funds 18 and people like that would be third-party payors. 19 A I am not aware specifically of unions. 20 Q Are you aware that the federal government 21 has a program called the Medicaid program that 22 reimburses for pharmaceuticals?</p>	<p style="text-align: right;">92</p> <p>1 Q If some questions came up in the course of 2 a day, a customer call, a salesman's call, something 3 like that, and there was some reimbursement question 4 as part of it, and you didn't know the information, 5 is there someone in the company you'd say, well, if 6 anybody knows this, it's probably so-and-so, and 7 you'd go to that person? 8 A And this is the relevant time period or 9 over the course of time I have been there? 10 Q Anytime you are there. 11 A I don't believe there was anyone 12 specifically that I would ask a question to that I 13 can recall. 14 Q Let's go back to AWP. I think you said 15 typically, usually at launch Purepac would set its 16 AWP at 10.1 percent below the branded AWP; right? 17 A That is what I said. 18 Q Were there ever occasions when Purepac 19 would change its AWP after launch? 20 A I believe in reviewing some documents 21 yesterday that Purepac had changed -- and that was 22 specifically the AWP?</p>
<p style="text-align: right;">91</p> <p>1 A I am aware of the federal government having 2 a Medicaid reimbursement program. 3 Q Is it fair -- is it accurate to say that 4 Purepac as a company, that it was aware that many 5 third-party payors, including the Medicaid program, 6 would reimburse based on AWP and WAC prices? 7 A To clarify, this is part of the 30(b)(6)? 8 Q Yes. 9 MR. FLEDER: You are including both AWP and 10 WAC, Mr. Mullin? 11 MR. MULLIN: Yes. 12 A I believe that there was an understanding 13 that AWP was used for reimbursement. I do not 14 believe that there was an understanding that WAC was 15 used for reimbursement. 16 Q Who at Purepac during the time that you 17 were there do you believe was the most knowledgeable 18 person with regard to reimbursement for 19 pharmaceuticals? 20 A I don't believe I am aware of anyone that 21 was knowledgeable about reimbursement for 22 pharmaceuticals.</p>	<p style="text-align: right;">93</p> <p>1 Q Yes. 2 A Yes, I believe I saw some documents. 3 Q And what would prompt Purepac to change its 4 AWP on a product? 5 A I do not know the answer. 6 Q As Purepac's representative, you know that 7 it happened, but you don't know why it happened? 8 A That is correct. 9 Q Okay. If the president of the company 10 asked you to find out why it happened, what would you 11 do? 12 A During the relevant time period? 13 Q Yes. 14 A During the relevant time period if the 15 president of the company had asked me personally to 16 find out, I would have checked to see what possible 17 reason there could have been, what I could have -- 18 documents could have been available at the time. 19 Q Who would you check -- were there people 20 that you would check with? 21 A I believe that would depend on when the 22 change occurred and who was responsible for the</p>